

TITLE 60

PROPERTY

Chapter

1. General Provisions
2. Ingress, Egress and Encroachment of Tribal Lands and Property

CHAPTER 1

GENERAL PROVISIONS

Section

1. Prior right of possession
2. Suits for recovery of property
3. Legal possession
4. Conveyance of property to minor

§ 1. Prior right of possession

Any person having peaceable possession of private property obtained through lawful means, and claiming a limited or absolute right in the same, shall be held, in law, to have a prior right of possession thereto against all persons obtaining possession thereafter, until the right of such person shall expire, or be by him transferred to another for good or valuable consideration, or until his right shall be disputed and invalidated by due course of law. And any person, having a prior right of possession of any property to any other person, and the property being detained by the latter from the former without his voluntary consent, may recover such property upon suit for possession merely, without regard to, or investigation had by the court of, other or higher title, either in plaintiff or defendant of such suit. But such person as plaintiff may submit to the court the general question of right, involving the right of possession of the property, or be awarded possession of such property merely, as provided above, with the right accruing of answering as defendant in all suits involving the right, title and interest of the parties to such property.

§ 2. Suits for recovery of property

Suits for the recovery of property shall be instituted against the person having the property in legal possession and control; but in any suit by a third party against the lessee or agent of another, holding property of another in his possession, in which suit the right of the principal in such property is mainly involved, such fact being brought to the notice of the Court, at the calling of the case, by disclaimer of ownership on part of defendant, the Court shall order the name of the principal to be placed upon the record as party defendant in that suit, and judgment shall be rendered accordingly.

§ 3. Legal possession

Property shall be held to be in the legal possession and control of any person when in his actual possession, or in the actual possession of any person in the service or employment of such defendant temporarily to use or take charge thereof. When property consists of stock, the possession thereof shall be determined as provided by law.

§ 4. Conveyance of property to minor

Any contract whereby the title to, or possession of, property is conveyed or transferred, to which contract a minor shall be a party, shall not be lawful and is hereby forbidden, except the consent of the guardian of such minor, should there be one appointed, and if not, of the parent of such minor, be obtained previous to the making of such contract. And any adult person who shall enter into any contract, forbidden in this section, shall, for such offense, forfeit, for the benefit of the minor with whom such contract is made, twice the full value of the consideration of such contract on part of the minor, upon suit hereby authorized to be instituted by the parent or guardian.

CHAPTER 2

INGRESS, EGRESS AND ENCROACHMENT OF TRIBAL LANDS AND PROPERTY

Section

21. Definitions

22. Policies and Procedures

§ 21. Definitions

Properties and Assets of the Cherokee Nation: Any and all lands owned or leased by Cherokee Nation or any of its business entities, trust, restricted, or fee simple.

Ingress is the right to enter property

Egress is the right to exit property

Encroachment: entry to another's property without right or permission-breach, entrance by stealth, entrance upon the domain of another, illegal intrusion, imposition, intrusion, infiltration, infraction, inroad, interference, interloping, invasion, irruption, obtrusion, overlap, overstepping, penetration, prying, raid, real estate trespass, transgression, trespass, unlawful invasion, violation, wrongful entry, wrongdoing, wrongful conduct, wrongful ingress

LA 12-17, eff. May 17, 2017.

§ 22. Policies and Procedures

A. This Act provides the Principal Chief will direct appropriate offices and staff within the executive branch to not allow any individual, company, or any other entity to restrict ingress/egress access to any Cherokee Nation property, to not allow any encroachment on any Cherokee properties whatsoever, and if any

entity has restricted ingress/egress or encroached on Cherokee Nation property to begin negotiations or legal proceedings to resolve ingress/egress problems, or remove encroachments on Cherokee Nation property.

B. Any requests for Easements and Rights of Way/Ingress and/or Egress must be submitted to the Cherokee Nation' Real Estate Services and then that request is to be submitted as a resolution for the Tribal Council to review and approve. A document/agreement for the applicant for the approved resolution shall be created by the Cherokee Nation Attorney General and signed by the Cherokee Nation Principal Chief, Deputy Principal Chief, or the Cherokee Nation Secretary of State pursuant to Legislative Act 15-01.

C. Any specific policies and procedures for this activity shall be created by the Tribal Council of the Cherokee Nation.

LA 12-17, eff. May 17, 2017.